

SENATE BILL No. 238

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-13.

Synopsis: Public depositories. Provides that for the investment of public funds, the fiscal body of a city or town is considered the local board of finance. Provides that a city or town may deposit public funds only in a financial institution that is eligible to receive state funds and that has a principal office or branch within the territorial limits of the political subdivision. Removes the discretion of a school corporation to determine if a board of finance meeting is needed on an annual basis. Permits local government investment officers to invest in municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana. Eliminates the power of the conservancy district in Lawrenceburg and Danville (Hendricks County) to invest in equity securities. Removes the restriction of investing not more than 50% of a unit's depository funds in money market mutual funds. Replaces the requirement that money be invested in transaction accounts and certificates of deposit with the depository quoting the highest interest rate with the authority to invest in a depository offering any one of the top three interest rates so long as the reason for choosing the alternate depository is noted in the memorandum of quotes. Provides that a unit may not invest more than 50% of the unit's total public funds that are invested at any point in time in deposit accounts. Requires that members of the board for depositories (board) must have substantial expertise in commercial bank management in addition to lending. Provides that two of the four board members must be affiliated, or previously affiliated, with an Indiana financial institution with at least \$1,000,000,000 in assets.
(Continued next page)

Effective: Upon passage.

Hershman

January 11, 2010, read first time and referred to Committee on Tax and Fiscal Policy.



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Provides that a simple majority of the board members voting is required to approve an action by the board instead of a unanimous vote. Changes the notice requirement for meeting notices from ten days to two days. Allows the board to fix the assessment rate at the times the board determines are necessary instead of twice each year. Allows the board to consider information in addition to any study by actuaries in establishing any change in the reserve for losses. Increases the amount of anticipatory warrants the board may issue to raise money for the insurance fund from \$1,500,000 to \$5,000,000. Allows the board to determine the amount and type of substituted securities a depository may provide to insure the insurance funds solvency. Provides that the market value of the substituted securities as of the date of delivery may be less than, but not exceed, the amount determined by the board. Repeals the power of the investing officers in two or more political subdivisions located within a county to establish a joint investment fund by entering into a written master agreement that defines the rights and obligations of the participating political subdivisions.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

SENATE BILL No. 238

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-13-4-19 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Except as
3 provided in ~~subsections~~ **subsection** (b), ~~and (c)~~; "political subdivision"
4 has the meaning set forth in IC 36-1-2-13.

5 (b) A hospital organized or operated under IC 16-22-1 through
6 IC 16-22-5 or IC 16-23-1 is considered a political subdivision only for
7 purposes of IC 5-13-12 and IC 5-13-13.

8 ~~(c) For purposes of IC 5-13-7 and IC 5-13-8, the term does not~~
9 ~~include a city or a town.~~

10 SECTION 2. IC 5-13-7-5 IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The fiscal body of each
12 political subdivision not governed by sections 1 through 3 of this
13 chapter constitutes a board of finance for that political subdivision. ~~A~~
14 ~~school corporation (as defined in IC 36-1-2-17) may determine if a~~
15 ~~board of finance meeting is needed on an annual basis.~~

16 (b) Each board of finance has supervision of the revocation of
17 public depositories for the respective political subdivisions for which



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they act.

(c) The members of the boards serve without compensation other than the members' salaries allowed by law for the members' services as officers of the members' respective political subdivisions.

SECTION 3. IC 5-13-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each officer designated in section 1 of this chapter may invest or reinvest any funds that are held by the officer and available for investment in any of the following:

(1) Securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States and issued by any of the following:

(A) The United States Treasury.

(B) A federal agency.

(C) A federal instrumentality.

(D) A federal government sponsored enterprise.

(2) Securities fully guaranteed and issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) Municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana.

(b) If an investment under subsection (a)(1) is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

(c) The officer making the investment may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases where the new securities offered in exchange meet the requirements for initial investment.

(d) The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

(1) a duly designated depository as prescribed in this article; or

(2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its

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governmental supervisory body.

(e) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

(f) In addition to any other investments allowed under this chapter, an officer of a conservancy district located in a city having a population of more than four thousand six hundred fifty (4,650) but less than five thousand (5,000) may also invest in

~~(1) municipal securities and~~

~~(2) equity securities;~~

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the officer of a conservancy district. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the officer of a conservancy district causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

(g) In addition to any other investments allowed under this chapter, a clerk-treasurer of a town with a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) may also invest money in a host community agreement future fund established by ordinance of the town in

~~(1) municipal securities and~~

~~(2) equity securities;~~

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the clerk-treasurer of a town. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the clerk-treasurer of a town causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

SECTION 4. IC 5-13-9-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) An officer designated in section 1 of this chapter may invest or reinvest funds that are held by the officer and available for investment in investments commonly known as money market mutual funds that are in the form of securities of or interests in an open-end, no-load, management-type

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investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

~~(b)~~ The investments described in subsection (a) may not exceed fifty percent (50%) of the funds held by the officer and available for investment. This limitation does not apply to investments made by a county treasurer between:

~~(1)~~ the date that is ten ~~(10)~~ days before each property tax installment due date described in IC 6-1.1-22-9; and

~~(2)~~ the property tax settlement distribution date described in IC 6-1.1-27-1(b);

~~(c)~~ **(b)** The investments described in subsection (a) shall be made through depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5.

~~(d)~~ **(c)** The portfolio of an investment company or investment trust described in subsection (a) must be limited to the following:

(1) Direct obligations of the United States.

(2) Obligations issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) Repurchase agreements fully collateralized by obligations described in subdivision (1) or (2).

~~(e)~~ **(d)** The form of securities of or interests in an investment company or investment trust described in subsection (a) must be rated as one (1) of the following:

(1) AAAM, or its equivalent, by Standard and Poor's Corporation or its successor.

(2) Aaa, or its equivalent, by Moody's Investors Service, Inc. or its successor.

~~(f)~~ **(e)** The form of securities in an investment company or investment trust described in subsection (a) is considered to have a stated final maturity of one (1) day.

~~(g)~~ **(f)** The state board of accounts may rely on transaction confirmations evidencing ownership of the form of securities of or interests in an investment company or investment trust described in subsection (a).

SECTION 5. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political

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subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository.

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. ~~A deposit made under this subsection shall be~~ **If the deposit is not** placed in the designated depository quoting the highest rate of interest, ~~If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.~~ **the investing officer shall:**

(1) place the deposit in the depository quoting the second or third highest rate of interest; and

(2) note the reason for placing the deposit on the memorandum of quotes.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 6. IC 5-13-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest in certificates of deposit of depositories that have not been designated by the local board of finance of either but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. An ordinance or a resolution adopted under this subsection must provide that the authority granted in the ordinance or resolution expires on a date that is not later than two (2) years after the date the ordinance or resolution is adopted.

(b) With respect to any money to be invested in a deposit account under subsection (a), the investing officer shall solicit quotes for the certificates of deposit from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its local board of finance, a quote must be solicited from that depository.

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If two (2) or more depositories have been designated for the political subdivision by its local board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

(c) Investments in any certificates of deposit to which this section applies shall be placed in the depository quoting the highest rate of interest under subsection (b); as determined after deducting any fee charged by the depository. If two (2) or more depositories submit the same highest quote, the investment shall be placed as follows:

(1) If only one (1) of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed in that depository.

(2) If more than one (1) of the highest quoters are depositories designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in any or all of these depositories in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(3) If none of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in one (1) of the depositories submitting the highest quote.

(c) If a deposit is not placed in the designated depository quoting the highest rate of interest, the investing officer shall follow the procedures and priority for placing deposits that are set forth in section 4 of this chapter and note the reason for placing the deposit on the memorandum of quotes.

SECTION 7. IC 5-13-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. An officer designated in section 1 of this chapter may not do the following:

(1) Purchase securities on margin.

(2) Open a securities margin account for the investment of public funds.

(3) Invest more than fifty percent (50%) of the unit's total public funds that are invested at any point in time in deposit accounts under this chapter.

SECTION 8. IC 5-13-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board for depositories consists of the governor, the treasurer of state, the auditor of state, the chairman of the commission for financial institutions, the

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1 chief examiner of the state board of accounts, and four (4) members
 2 appointed by the governor all of whom must be residents of Indiana
 3 and have had substantial expertise in commercial **bank management**
 4 **and** lending with depositories. No more than two (2) of the four (4)
 5 appointees may identify with the same political party. **For**
 6 **appointments after June 30, 2010, two (2) of the four (4) appointees**
 7 **must be affiliated, or previously affiliated, with an Indiana**
 8 **financial institution with at least one billion dollars**
 9 **(\$1,000,000,000) in assets, as reported on the financial institution's**
 10 **most recent statement of condition.** The terms of the appointed
 11 members extend for four (4) year periods. Each appointed member
 12 holds office for the term of this appointment and serves after the
 13 expiration of that appointment until the member's successor is
 14 appointed and qualified. Any appointed member may be removed from
 15 office by, and at the pleasure of, the governor.

16 (b) The officers of the board consist of a chairman, a
 17 secretary-investment manager, a vice chairman, and other officers the
 18 board determines to be necessary. The governor shall name a member
 19 of the board to serve as its chairman. The treasurer of state shall serve
 20 as the secretary-investment manager of the board. The board, by
 21 majority vote, shall elect the other officers. Officers, except the
 22 secretary-investment manager, shall be named or elected for one (1)
 23 year terms in January of each year. The members and officers of the
 24 board are not entitled to any compensation for their services but are
 25 entitled to reimbursement for actual and necessary expenses on the
 26 same basis as state employees.

27 (c) Five (5) members of the board constitute a quorum for the
 28 transaction of business, and all actions of the board must be approved
 29 by at least ~~five (5)~~ **a simple majority of those members voting on**
 30 **each individual business issue.** The board may adopt, amend, or
 31 repeal bylaws and rules for the conduct of its meetings and the number
 32 and times of its meetings, and shall hold regular and special meetings
 33 as prescribed in its rules. All meetings of the board are open to the
 34 public under IC 5-14-1.5. All records of the board are subject to public
 35 inspection under IC 5-14-3.

36 (d) ~~Ten (10)~~ **Two (2)** days notice of the time and place of all
 37 meetings to determine and fix the assessment rate to be paid by
 38 depositories on account of insurance on public funds or the
 39 establishment or redetermination of the reserve for losses of the
 40 insurance fund shall be given by one (1) publication in a newspaper of
 41 general circulation printed and published in the city of Indianapolis.
 42 The time, place, notice, and waiver requirements for the members of

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the board for all meetings shall be determined by its rules. The secretary-investment manager of the board shall enter its proceedings at length in a record provided for that purpose, and the records of the proceedings shall be approved and signed respectively by the chairman or vice chairman and attested by the secretary-investment manager.

SECTION 9. IC 5-13-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Subject to the limitations prescribed in this chapter, the board for depositories may fix the assessment rate to provide assets in the fund sufficient to equal the reserve for losses of the fund for the insurance of public funds on deposit in depositories. Effective on July 1, and January 1, of each year, **and from time to time as the board determines necessary**, the board shall determine and fix the fair and reasonable assessment rate for each classification of deposit, if any, to be used by depositories in determining the assessments payable during the succeeding six (6) month period. This determination shall be made by the board before or as soon as practicable after the applicable July 1, ~~or~~ January 1, **or other date established by the board**. In fixing the rate, if any, the board shall consider the amount of public funds currently on deposit, the liabilities of the insurance fund, contingent and accrued, and the determination of the board on the amount of the reserve for losses of the insurance fund as set out in section 7(b) of this chapter. For any six (6) month period the maximum assessment rate that may be fixed by the board is two percent (2%). The board may lower or waive the assessment on any or all classifications of deposit if in its discretion it determines that a lower rate or waiver will not prevent the fund from attaining sufficient assets to equal the reserve for losses. **Subject to the board's power to implement an assessment at any time by action by the board**, if, at the beginning of any six (6) month period, no action has been taken by the board for depositories fixing the assessment rate, if any, on public funds for the succeeding six (6) month period, the assessment rate is the same rate, if any, in effect during the preceding six (6) month period. Whenever as of July 1, or January 1, the value of the assets in the fund equals or exceeds the reserve for losses, the board shall eliminate the assessment requirement for the succeeding six (6) month period for each classification of deposit.

(b) During any period when an assessment rate is in effect, the assessment base for each depository of public funds shall be determined monthly. The assessment base must be equal to the sum total of all the minimum balances of each classification of public funds on deposit in each and all accounts during the month, the minimum

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balance of each account being taken respectively as of the date on which it occurs. On or before the second day of each month in which an assessment rate is in effect, each depository shall compute the amount of the assessment due from it to the insurance fund on account of public funds on deposit with it during the preceding month. The amount of the monthly assessment, if any, is the product obtained by multiplying one-twelfth (1/12) times the assessment base for the month for which the assessment is being computed.

(c) During the time the assessment rate on public funds has been waived or eliminated by the board for depositories, the respective depositories are not obligated to pay any assessment but shall continue to prepare and file the reports that would otherwise be required to be prepared and filed under this chapter.

SECTION 10. IC 5-13-12-7, AS AMENDED BY P.L.1-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board for depositories shall manage and operate the insurance fund. All expenses incident to the administration of the fund shall be paid out of the money accumulated in it subject to the direction of the board for depositories.

(b) Effective January 1 and July 1 in each year, the board shall before those dates redetermine the amount of the reserve to be maintained by the insurance fund. The establishment or any change in the reserve for losses shall be determined by the board based on **information the board considers, including but not limited to** a study to be made or updated by actuaries, economists, or other consultants based on the history of losses, earnings on the funds, conditions of the depositories, economic conditions affecting particular depositories or depositories in general, and any other factors that the board considers relevant in making its determination. The reserve determined by the board must be sufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.

(c) At the end of each biennial period during which depositories have had public funds on deposit under this chapter and paid the assessments levied by the board, the board shall compute its receipts from assessments and all other sources and its expenses and losses and determine the profit derived from the operation of the fund for the period. Until the amount of the reserve for losses has been accumulated, all assessments levied for a biennial period shall be retained by the fund. The amount of the assessments, if any, levied by the board shall, to the extent the fund exceeds the reserve for losses at the end of a biennial period commencing July 1 of each odd-numbered

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year, be distributed to the depositories that had public funds on deposit during the biennial period in which the assessments were paid. The distribution shall be made to the respective depositories in the proportion that the total assessments paid by each depository during that period bears to the total assessments then paid by all depositories. A distribution to which any closed depository would otherwise be entitled shall be set off against any claim that the insurance fund may have against the closed depository.

(d) The board may invest, reinvest, and exchange investments of the insurance fund in excess of the cash working balance in any of the following:

(1) In bonds, notes, certificates, and other valid obligations of the United States, either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(2) In bonds, notes, debentures, and other securities issued by a federal agency or a federal instrumentality and fully guaranteed by the United States either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(3) In bonds, notes, certificates, and other valid obligations of a state or of an Indiana political subdivision that are issued under law, the issuers of which, for five (5) years before the date of the investment, have promptly paid the principal and interest on their bonds and other legal obligations.

(4) In bonds or other obligations of the Indiana finance authority issued under IC 4-13.5.

(5) In investments permitted the state under IC 5-13-10.5.

(6) In guarantees of industrial development obligations or credit enhancement obligations, or both, for the purposes of retaining and increasing employment in enterprises in Indiana, subject to the limitations and conditions set out in this subdivision, subsection (e), and section 8 of this chapter. An individual guarantee of the board under this subdivision must not exceed eight million dollars (\$8,000,000).

(7) In guarantees of bonds or notes issued under IC 5-1.5-4-1, subject to the limitations and conditions set out in subsection (e) and section 8 of this chapter.

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(8) In bonds, notes, or other valid obligations of the Indiana finance authority that have been issued in conjunction with the authority's acquisition, development, or improvement of property or other interests for an industrial development project (as defined in IC 4-4-10.9-11) that the authority has undertaken for the purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(9) In notes or other debt obligations of counties, cities, and towns that have been issued under IC 6-1.1-39 for borrowings from the industrial development fund under IC 5-28-9 for purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(10) In bonds or other obligations of the Indiana housing and community development authority.

(e) The investment authority of the board under subsection (d) is subject to the following limitations:

(1) For investments under subsection (d)(1) and (d)(2), the portfolio of an open-end no-load management-type investment company or investment trust must be limited to:

(A) direct obligations of the United States and obligations of a federal agency or a federal instrumentality that are fully guaranteed by the United States; and

(B) repurchase agreements fully collateralized by obligations described in clause (A), of which the company or trust takes delivery either directly or through an authorized custodian.

(2) Total outstanding investments in guarantees of industrial development obligations and credit enhancement obligations under subsection (d)(6) must not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) fourteen million dollars (\$14,000,000).

(3) Total outstanding investments in guarantees of bond bank obligations under subsection (d)(7) must not exceed the greater of:

(A) twenty percent (20%) of the available balance of the insurance fund; or

(B) twenty-four million dollars (\$24,000,000).

(4) Total outstanding investments in bonds, notes, or other obligations of the Indiana finance authority under subsection (d)(8) may not exceed the greater of:

(A) fifteen percent (15%) of the available balance of the insurance fund; or

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(B) twenty million dollars (\$20,000,000).

However, after June 30, 1988, the board may not make any additional investment in bonds, notes, or other obligations of the Indiana finance authority issued under IC 4-4-11, and the board may invest an amount equal to the remainder, if any, of:

(i) fifteen percent (15%) of the available balance of the insurance fund; minus

(ii) the board's total outstanding investments in bonds, notes, or other obligations of the Indiana finance authority issued under IC 4-4-11;

in guarantees of industrial development obligations or credit enhancement obligations, or both, as authorized by subsection (d)(6). In such a case, the outstanding investments, as authorized by subsection (d)(6) and (d)(8), may not exceed in total the greater of twenty-five percent (25%) of the available balance of the insurance fund or thirty-four million dollars (\$34,000,000).

(5) Total outstanding investments in notes or other debt obligations of counties, cities, and towns under subsection (d)(9) may not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) twelve million dollars (\$12,000,000).

(f) For purposes of subsection (e), the available balance of the insurance fund does not include the outstanding principal amount of any fund investment in a corporate note or obligation or the part of the fund that has been established as a reserve for losses.

(g) Except as provided in section 4 of this chapter, all interest and other income earned on investments of the insurance fund and all amounts collected by the board accrue to the fund.

(h) Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of any investment in any of the obligations listed in subsection (d).

(i) The board shall, when directed by the state board of finance constituted by IC 4-9.1-1-1, purchase the loan made by the state board of finance under IC 4-10-18-10(i). The loan shall be purchased by the board at a purchase price equal to the total of:

(1) the principal amount of the loan;

(2) the deferred interest payable on the loan; and

(3) accrued interest to the date of purchase by the board.

Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of the purchase of the loan under this subsection.

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SECTION 11. IC 5-13-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Whenever the assets in the insurance fund are not sufficient to pay the claims of any kind that have been finally determined and have become payable, the board for depositories shall issue anticipatory warrants for the purpose of raising money for the immediate payment of the claims. The warrants outstanding and unpaid must not at any time exceed the sum of ~~one million five hundred thousand dollars (\$1,500,000)~~ **five million dollars (\$5,000,000)**. Interest may be paid upon the warrants from the date the rate was established by the board for depositories. Interest is payable at the end of each year or for a shorter period as the warrants remain unpaid.

(b) The warrants are the obligation of the board for depositories payable out of the public deposit insurance fund only and do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. Each warrant must have printed on its face the words, "This warrant is an obligation of the board for depositories payable solely out of the public deposits insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal, the interest, or any other amount owed on the warrants."

(c) Subject to the limitations in subsections (a) through (b), the warrants shall be issued in the individual and gross amounts and in the form and at the rate of interest approved by the board for depositories.

SECTION 12. IC 5-13-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) At any time when the board for depositories determines that the assets of the insurance fund are insufficient to pay its liabilities, accrued or contingent, or determines that the assessments due or to become due will not be sufficient to maintain the insurance fund in a solvent condition and insure the safekeeping and prompt payment of public funds, the board may enter an order requiring **any or** all then constituted depositories to substitute other security **in the amount and type, as determined by the board from time to time**, to secure the safekeeping and prompt payment of public funds.

(b) The board may require **any or** all then constituted depositories to deliver and pledge to the proper local board of finance or to the state board of finance, under the conditions for joint control of the collateral by the depositories as may be approved by the board for depositories, bonds or other obligations of like character as those in which the board is authorized to invest the excess funds of the insurance fund under IC 5-13-12-7(d). The market value of these securities, at the time of

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1 delivery, must ~~equal~~ **be an amount determined by the board, which**
 2 **may not exceed** the amount of public funds then on deposit with the
 3 respective depositories. The board may require depositories to pledge
 4 acceptable securities to such an extent that the market value of the
 5 pledge will at all times be substantially equal to the amount of public
 6 funds on deposit in the respective depositories.

7 (c) Whenever an order is in force and the amount of public funds on
 8 deposit is at least ten percent (10%) less than the market value of
 9 securities pledged to secure the payment, the depository may withdraw
 10 the excess amount of pledged collateral.

11 (d) Any order of the board for depositories ~~applies equally to all~~
 12 ~~depositories and~~ becomes effective within the time fixed by the board.
 13 However, the time of effectiveness must not be earlier than thirty (30)
 14 days from the date of entry of the order by the board. The order
 15 continues in force until rescinded by the board. Upon the entry of any
 16 order by the board for depositories, all then constituted depositories
 17 **affected by the order** shall comply with the order. Upon compliance,
 18 and full payment of all its liabilities by the insurance fund, depositories
 19 are not required to pay any further assessments for insurance under this
 20 chapter until the order requiring collateral has been revoked or
 21 rescinded and the collateral returned to the respective depositories.

22 SECTION 13. IC 5-13-9-10 IS REPEALED [EFFECTIVE UPON
 23 PASSAGE].

24 SECTION 14. **An emergency is declared for this act.**

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